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2 UNITED STATES DISTRICT COURT  
3 WESTERN DISTRICT OF WASHINGTON  
4 AT SEATTLE

5 TOMAS GARCIA-GUZMAN,

6 Petitioner(s),

7 v.

8 A. NEIL CLARK,

9 Respondent(s).

NO. C09-803MJP

ORDER ON REPORT AND  
RECOMMENDATION

10 The above-entitled Court, having received and reviewed

11 1. Report and Recommendation (Dkt. No. 17)

12 2. Traverse/Objections to Report and Recommendation (Dkt. No. 18)

13 all attached declarations and exhibits, and the remainder of the record, makes the following ruling:

14 IT IS ORDERED that the Report and Recommendation is ADOPTED, Respondent's motion  
15 to dismiss is GRANTED, and this matter is DISMISSED.

16 **Discussion**

17 The facts are fully briefed in the Magistrate Judge's Report and Recommendation (R&R, pp.  
18 2-3), and Petitioner concedes that they are "by and large correct." Objns., p. 1. The Court will not  
19 repeat them here.

20 Petitioner has been declared a removable alien and is currently in custody awaiting the results  
21 of his Ninth Circuit appeal. His Petition for Writ of Habeas Corpus (Dkt. No. 6) seeks the following  
22 relief:

23 That the Court Order the Petitioner to be released on supervised release pending all  
24 finality *or that the court orders the Agency to hold a bond hearing* where individual  
factors are considered that can allow for the release of the Petitioner pending the  
conclusion of his legal matters with ICE and the District Courts and the Ninth Circuit.

1 Pet'n, p. 2 (emphasis supplied).

2 As outlined in the facts contained in the R&R, Petitioner has received four bond hearings. At  
3 the last bond hearing at which Petitioner appeared (which was his third bond hearing; he withdrew his  
4 request for the fourth hearing after the fourth hearing was already set), his bond was lowered from  
5 \$15,000 to \$2,500. AR R80-89. Petitioner filed this writ prior to his bond being reduced. In addition  
6 to his request in the alternative that he either be granted supervised release "or that the court orders  
7 the Agency to hold a bond hearing," the Court also notes that the writ contains the representation that  
8 "Petitioner does assert the fact that he is not able to afford a large bond, but may be able to gain  
9 assistance from the community in gaining access to a low bond." Pet'n, p. 6.


10 The R&R recommends the dismissal of the petition on the grounds that Petitioner has obtained  
11 the relief he sought – a bond review which resulted in a substantially lower bond. Petitioner's  
12 objection to the recommendation is confined to the failure to grant him supervised release without the  
13 necessity of a bond. But the writ of habeas corpus only sought supervised release in the alternative,  
14 and Petitioner has obtained one form of relief he requested. The granting of supervised release is a  
15 discretionary act, and nowhere in his objections does Petitioner allege an abuse of that discretion.  
16 Petitioner cites to no authority, nor is the Court aware of any, that requires a grant of supervised  
17 release under his circumstances as a matter of right.

18 **Conclusion**

19 Petitioner has obtained the relief he sought by his writ of habeas corpus. The Respondent's  
20 motion to dismiss is GRANTED, and the petition filed in the above-entitled matter is DISMISSED.

21 The clerk is ordered to provide copies of this order to all counsel and to Judge Donohue.

22 Dated: November \_\_18\_\_, 2009

23   
24 Marsha J. Pechman  
25 U.S. District Judge  
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